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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/805,685 | 03/19/2004 | Brian J. Conaway | 3984500-146939 | 8539 |

7590 02/13/2006

ATTN: Intellectual Property Department
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EXAMINER

AVERY, BRIDGET D

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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3618

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 10/805,685 | Applicant(s) CONAWAY ET AL. | |
| | Examiner Bridget Avery | Art Unit 3618 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-16, 18-25, 27-34 and 36-40 is/are pending in the application.
- 4a) Of the above claim(s) 4, 15, 16, 25 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-3, 5-9, 11-14, 18-24, 27-32, 34 and 36-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/19/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 11-14, 20 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Victor (US Patent 676,163).

Victor teaches a wheelbarrow including, in combination:

- A rigid front bracket (C)
- A wheel (B) rotatably secured to the front bracket (C)
- First and second handle arms (E) pivotably attached to the front bracket (C) at first and second spaced apart pivot axes (e) respectively
- The front bracket (C) is generally U-shaped having a laterally extending front section and first and second laterally spaced apart leg sections rearwardly extending from the front section, as clearly shown in Figure 5
- Leg sections include parallel and spaced apart upper and lower walls (see lower wall c) and the first and second handle arms (E) extend between the upper and lower walls at least from an axis of rotation (at axle A) to the first and second pivot axes (e) respectively
- The first and second pivot axes (e) are spaced apart from the axis of rotation (A) of the wheel (B) in the forward-rearward direction

- The first and second pivot axes (e) are located forward of the axis of rotation (A) of the wheel (B) when viewed from a position near the handle ends opposite the wheels (B)
- The first and second handle arms (E) extend between the upper and lower walls from a location rearward of the axis of rotation (A) of the wheel (B) to a location forward of the axis of rotation (A) of the wheel (B)
- The first and second pivot axes (e) are perpendicular to the axis of rotation (A) of the wheel (B)
- The first and second pivot axes (e) are located at opposed sides of the wheel (B)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Victor (US Patent 676,163) in view of Allsop et al. (US Patent 6,764,093).

Victor teaches the features described above including means for limiting outward pivotable movement of the first and second legs respectively. See column 2, lines 57-71.

Victor lacks the teaching of legs sections that form abutments.

Allsop et al. teaches leg sections that form abutments. The leg sections (26) abut against the side walls (48) of a tapered portion (40).

Based on the teachings of Allsop et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add an inner wall to the bracket of Victor, of which the leg would abut, as an alternative to the limiting means already taught, to simplify the design to reduce manufacturing cost.

3. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Victor ('163) and Allsop et al. ('093) as applied to claim 1 above, and further in view of Aielli (US Patent 6,186,523).

The combination of Victor and Allsop et al. teach the features described above,

The combination of Victor and Allsop et al. lack the teaching of a rigid tray and a clamping device.

Aielli teaches a rigid tray (44) and a clamping device (42, 43).

Based on the teachings of Aielli, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a rigid tray and a clamping device to the combination of Victor and Allsop et al. to provide a container that can be secured for holding items to be transported on the wheelbarrow.

4. Claims 18, 19, 23, 27, 28, 30-32, 36 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Victor ('163) in view of Gibbons (US Patent 3,743,312).

Victor teaches the features described above.

Victor lacks the teaching of a tray and a clamping device.

Gibbons teaches a rigid tray (30) and a clamping device (24).

Based on the teachings of Gibbons, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a rigid tray and a clamping device to the wheelbarrow of Victor to provide a container that can be secured for holding items to be transported on the wheelbarrow. Re claim 23, the clamping device (24) extending between the first and second handle arms and removably applying a clamping force between the first and second handle arms to clamp the tray (30) between the first and second handle arms. Upon disengagement of the clamping device (24), the tray can move in a lateral direction. Re claim 39, the clamping force is adjustable via the clamping device/wing nuts (24).

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Victor ('163) and Allsop et al. ('093) as applied to claim 1 above, and further in view of Donze et al. (US Patent 5,026,079).

The combination of Victor and Allsop et al. teach the features described above.

The combination of Victor and Allsop et al. lacks the teaching of telescoping handle arms.

Donze et al. teaches telescoping handle arms (16).

Based on the teachings of Donze et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to replace the handle

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arms taught by the combination of Victor and Allsop et al., with telescoping arms to allow for easier stowage during transportation of the wheelbarrow and to permit the height or position of the handles to be adjusted depending on the stature of the user so as to avoid an uncomfortable working position.

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Victor ('163) in view of Donze et al. (US Patent 5,026,079).

Victor teaches the features described above.

Victor lacks the teaching of telescoping handle arms.

Donze et al. teaches telescoping handle arms (16).

Based on the teachings of Donze et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to replace the handle arms taught by Victor, with telescoping arms to allow for easier stowage during transportation of the wheelbarrow and to permit the height or position of the handles to be adjusted depending on the stature of the user so as to avoid an uncomfortable working position.

7. Claims 24 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Victor ('163) and Gibbons ('312) as applied to claim 23 and 31 above, and further in view of Leger et al. (US Patent 6,017,053).

The combination of Victor and Gibbons teach the features described above. The bracket (C) forms a groove.

The combination of Victor and Gibbons lack the teaching of a cable.

Leger et al. teaches a cable.

Based on the teachings of Leger et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a flexible cable to provide an economical means of securing the tray to the arms.

8. Claims 29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Victor ('163) and Gibbons ('312), as applied to claims 23 and 31 above, and further in view of Donze et al. (US Patent 5,026,079).

The combination of Victor and Gibbons teach the features described above.

The combination of Victor and Gibbons lack the teaching of telescoping handle arms.

Donze et al. teaches telescoping handle arms (16).

Based on the teachings of Donze et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to replace the handle arms taught by the combination of Victor and Gibbons, with telescoping arms to allow for easier stowage during transportation of the wheelbarrow and to permit the height or position of the handles to be adjusted depending on the stature of the user so as to avoid an uncomfortable working position.

Response to Arguments

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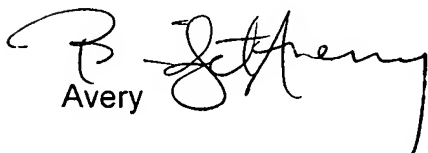
9. Applicant's arguments with respect to claims 1-3, 5-9, 11-14, 18-24, 27-32, 34 and 36-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.


Avery

February 6, 2006


PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600